

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION

DAVID A. STEBBINS

PLAINTIFF

v.

CASE NO. 4:16CV545 JM

STATE OF ARKANSAS, ARKANSAS
REHABILITATION SERVICES, AND
AMY JONES

DEFENDANTS

DEFENDANTS' RESPONSE TO PLAINTIFF'S STATEMENT OF FACTS

COME NOW Defendants State of Arkansas, Arkansas Rehabilitation Services, and Amy Jones, by and through their attorneys, Attorney General Leslie Rutledge and Senior Assistant Attorney General Christine A. Cryer, and for their Response to Plaintiff's Statement of Facts, states as follows:

UNDISPUTED FACT NO. 1 – I have several disabilities, including but not limited to Aspergers and Depression.

RESPONSE TO FACT NO. 1: Defendants admit that on December 1, 2015, Plaintiff produced 13 pages of medical records which documented Plaintiff reporting he had been diagnosed with Asperger's and depression.

UNDISPUTED FACT NO. 2 – I have filed several ADA discrimination lawsuits in the past, which the Defendants were aware of.

RESPONSE TO FACT NO. 2: Admitted. Plaintiff first reported this information to Defendant Amy Jones during their December 8, 2015 telephone conversation.

UNDISPUTED FACT NO. 3 – I applied for ARS funding to attend college at Arkansas Tech University on December 1, 2015.

RESPONSE TO FACT NO. 3: Defendants admit Plaintiff reported during his initial interview on December 1, 2015 that he was requesting assistance with attending Arkansas Tech in Russellville.

UNDISPUTED FACT NO. 4 – On December 15, 2015, licensed psychological examiner Leslie Johnson issued a recommendation that I be determined ineligible for ARS assistance, in part because of my statutorily protected activities, and in part because I have symptoms that she believes could, in some vague, unspecified ways, interfere with my vocational rehabilitation.

RESPONSE TO FACT NO. 4: Denied. According to Ms. Johnson's Conclusions and Recommendations, Plaintiff's history indicated a history of physical aggression and threatening statements, which she found to suggest that he was not currently appropriate for vocational rehabilitation services. Ms. Johnson did not recommend Plaintiff be denied ARS services due to his litigation history.

UNDISPUTED FACT NO. 5 – While forming the recommendations spoken of in Undisputed Fact No. 4, Dr. Leslie Johnson never examined me personally.

RESPONSE TO FACT NO. 5: Admitted. Ms. Johnson had Plaintiff's recent records to review and felt she was able to make her recommendations without meeting with the Plaintiff in person. Ms. Johnson's physical well-being was

an issue, and based upon the Plaintiff's exhibited instability in the two weeks prior, as well as his documented behavior, there was believed to be some genuine concern about her safety.

UNDISPUTED FACT NO. 6 – While forming the recommendation spoken of in Undisputed Fact No. 4, Dr. Leslie Johnson never considered whether any reasonable accommodations would allow me to overcome any real or perceived deficiencies.

RESPONSE TO FACT NO. 6: Denied. Ms. Johnson determined that it was reasonable to recommend a referral to a local mental healthcare provider, as the Plaintiff needed to be able to establish a period of stable functioning prior to training.

UNDISPUTED FACT NO. 7 – On December 17, 2015, Amy Jones rejected my application for ARS services (although they do not call it a “denial,” they say I was “found to be ineligible,” but that is just semantics. The bottom line is ... I did not get the funding and assistance I asked for), in part because of my symptoms.

RESPONSE TO FACT NO. 7: Admitted that on December 16, 2015, Ms. Jones wrote to Plaintiff and stated the following: “The diagnostic study has been completed, and based on the information I have and to the best of my knowledge and judgment, it does not appear that you are eligible for vocational rehabilitation services.” ARS 122

Plaintiff was determined ineligible for ARS services. This determination was based on Amy Jones' assessment of Plaintiff's inappropriate and hostile interactions with the staff, his medical and psychological reports and refusal for treatment. All of those factors lead Ms. Jones to believe that Plaintiff would not benefit in terms of an employment outcome from the provisions of VR services.

UNDISPUTED FACT NO. 8 – The Defendants are only just now attempting to create another excuse for the denial of funding, by stating that my interactions with them were inappropriate and hostile.

RESPONSE TO FACT NO. 8: Denied. See the Client Contact Notes, Police Reports, Documents provided by Plaintiff in December 2015, and Ms. Johnson's Conclusions and Recommendations which all support the finding of Plaintiff's ineligibility as of December 2015.

UNDISPUTED FACT NO. 9 – There is a 99.99999999% chance that the complaints about the inappropriate behavior were only created recently as a pretextual excuse, and were not originally factors in the denial of funding.

RESPONSE TO FACT NO. 9: Denied. See the Client Contact Notes, Police Reports, Documents provided by Plaintiff in December 2015, and Ms. Johnson's Conclusions and Recommendations which all support the finding of Plaintiff's ineligibility as of December 2015.

UNDISPUTED FACT NO. 10 – The average annual salary in the United States for a person with a bachelor's degree in the field of

computer and information technology for the year 2016 – the most recent year for which statistics are available – is \$89,685.71 per year, or \$1,724.73 per week.

RESPONSE TO FACT NO. 10: Defendants are without information to accurately admit or deny this fact, and therefore deny. Defendants further deny this is a material fact.

UNDISPUTED FACT NO. 11 – I have earned good grades in college, particularly in the field of mathematics.

RESPONSE TO FACT NO. 11: Defendants are unable to admit or deny this Fact as they are not comfortable attempting to quantify the phrase “good grades.” Defendants, however, admit that on December 11, 2015, Plaintiff produced a document which purports to be a transcript from North Arkansas College. Defendants admit that, according to the document, Plaintiff attended North Arkansas College from the fall of 2008 until the summer of 2010. During that time, Plaintiff enrolled in 19 classes. He withdrew from 9 of them. In the classes he did attend, he earned 4-A’s, 3-B’s, and 3-C’s.

On September 19, 2017, Defendants propounded discovery to Plaintiff, which included a release for school records in order to verify the authenticity of the document produced by Plaintiff and to request any additional records which might be available. Plaintiff’s time to respond has not yet expired.

UNDISPUTED FACT NO. 12 – Computer science will require nearly half of my courses to be mathematics.

RESPONSE TO FACT NO. 12: Defendants are without information to accurately admit or deny this fact, and therefore deny. Defendants further deny this is a material fact.

UNDISPUTED FACT NO. 13 – Success in school is directly indicative of the success in the workforce.

RESPONSE TO FACT NO. 13: Denied. Success in the workforce is not directly indicative of success in school. It would not typically be a direct indication This might be a good indicator for a young adult/high school student without extenuating circumstances, limitations or barriers. Most often the work history is a better indication of someone's success of failure in the workforce.

UNDISPUTED FACT NO. 14 – I am automatically qualified for ARS funding if I receive Supplemental Security Income (SSI).

RESPONSE TO FACT NO. 14: Denied. Individuals who receive SSI benefits are “presumed” eligible; however, an assessment still has to be performed to fully determine eligibility and feasibility for services.

Respectfully submitted,

LESLIE RUTLEDGE
Attorney General

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CERTIFICATE OF SERVICE

I, Christine A. Cryer, hereby certify that on 12th day of October, 2017, I mailed this document by U.S. Postal Service to the following:

David A. Stebbins
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Harrison, AR 72601

/s/Christine A. Cryer
Christine A. Cryer